

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SAMUEL L. HILL,)	
)	
Petitioner,)	4:16CV3072
)	
V.)	
)	
SCOTT R. FRAKES, Dir. N.D.C.S.,)	MEMORANDUM
)	AND ORDER
Respondent.)	
_____)	

Petitioner filed a Motion for Leave to Proceed in Forma Pauperis. (Filing No. [5](#).) However, Petitioner subsequently paid the court's filing fee. Therefore, Petitioner's IFP motion will be denied as moot.

Petitioner also filed a Motion to Appoint Counsel. (Filing No. [2](#).) "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court." [McCall v. Benson](#), 114 F.3d 754, 756 (8th Cir. 1997). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. *See, e.g., Morris v. Dormire*, 217 F.3d 556, 558-59 (8th Cir. 2000), *cert. denied*, 531 U.S. 984 (2000); [Hoggard v. Purkett](#), 29 F.3d 469, 471 (8th Cir. 1994). *See also* Rule 8(c) of the *Rules Governing Section 2254 Cases in the United States District Courts* (requiring appointment of counsel if an evidentiary hearing is warranted). The court has carefully reviewed the record and finds there is no need for the appointment of counsel at this time.

IT IS ORDERED:

1. Petitioner's Motion to Appoint Counsel (Filing No. [2](#)) is denied without

prejudice to reassertion.

2. Petitioner's Motion for Leave to Proceed in Forma Pauperis (Filing No. [5](#)) is denied as moot.

DATED this 26th day of May, 2016.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge